STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

File No. REG-2007-00005 **May 15, 2007**

INITIAL STATEMENT OF REASONS

SUBJECT OF PROPOSED RULEMAKING

Revised Mandated Benefits Analysis Regulations

DESCRIPTION OF THE PUBLIC PROBLEM

California Health and Safety Code Section 127660 became effective as law on January 1, 2002. This statute requires that the University of California prepare an analysis and systematic review of health benefits currently mandated by the Legislature to determine if mandating that health insurers provide these specific health benefits is in the public interest. These legislatively mandated benefits to be reviewed are specified at California Health and Safety Code Section 127660 (c) and include bone marrow testing for prospective donors, infertility treatments, hearing aids, bone density testing and treatment for substance related disorders. .Other legislatively mandated benefits to be studied include such benefits as wigs for patients who have undergone chemotherapy and genetic disease testing.

California Health and Safety Code Section 127662(a) provides that the California Department of Insurance and the Department of Managed Care will provide up to two million dollars [$2,000, 000.00] in to fund the review, by assessing health insurers and health service plans for the costs of the study during the Fiscal Years 2002/3, 2003/4 and 2004/5 and 2005/6. As required by statute the Department of Insurance and the Department of Managed Care met and stipulated to their respective obligations to fund the mandated benefits study. Based on a market share analysis, it was determined that 87.6 percent of the costs of the mandated benefits study were to be borne by health care service plans [under the jurisdiction of the Department of Managed Care] and 12.4 percent of costs were to borne by health insurers [as defined by California Insurance Code 106] under the jurisdiction of the Department of Insurance

In September, 2006, the California Legislature amended California Insurance Code Section 127762 to require that the Commissioner continue to fund the mandated benefits study thorough the Fiscal Year 2009-10.

The specific purpose for each proposed adoption and the rationale for the determination that amendment is reasonably necessary to carry out the purpose for which it was

proposed together with a description of the public problem each adoption is intended to address is set forth below.

Proposed California Code of Regulations
Section 2218.63(b) (Amend)

California Health & Code Section 127762 provides that the Insurance Commissioner and the California Department of Managed Care fund a study to be performed by the University of California regarding the efficacy of certain legislatively mandated benefits. The California Legislature amended California Health & Code Section 127762 to provide that the study of legislatively mandated health benefit should continue for the Fiscal Years 2006-7, 2007-8, 2008-9 and 2009-10.

California Code of Regulations Section 2218.63 (b), as originally enacted, provides that invoices issued pursuant to these regulations shall assess a fee calculated in the manner described in 2218.62 (a) from each health insurer for the Fiscal Years 2002-3, 2003-4; 2004-5 and 2005-6. This subsection further provides that the Department shall issue one single invoice for the Fiscal Year 2002-3 and 2003-4 and separate invoices will be issued for each of the Fiscal Year 2004-5 and 2005-6.

In 2006, the California Legislature amended California Health & Code Section 127762(b) to provide that the study of legislatively mandated health benefit should continue for the Fiscal Years 2006-7, 2007-8, 2008-9 and 2009-10.

The first proposed amendments to Section 2218.63 (b) is necessary so that the regulations that implement Health and Safety Code Section 127762 are consistent with current law that requires the continuation of the study of mandated benefits and the funding of the study through Fiscal Year 2009-10. Further, this amendment of this subsection is necessary to implement, interpret and make specific the amended enabling statute.

This second proposed amendment to subsection 2218.63(b) eliminates the provision which requires the Department to issue one single invoice for the Fiscal Year 2002-3 and 2003-4 and separate invoices for each of the Fiscal Year 2004-5 and 2005-6. The Commissioner has eliminated the requirement from the regulation so that the regulation is consistent with California Health & Safety Code Section 127662(c) (3) that requires assessed fees to be paid on an annual basis to the Health Care Benefits Fund.

PRE NOTICE DISCUSSION

As set forth above the **C**ommissioner originally engaged in discussions with the Department of Managed Health Care and determined the respective percentage shares to be used in determining the amount of assessments for the original assessments. The Commissioner has now confirmed with the Department of Managed Care that the

originally determined percentage shares used in calculating the assessment continue to be accurate and appropriate for continued use.

IDENTIFICATION OF STUDIES

The Commissioner has relied upon the memorandum, dated March 13, 2007 prepared by Leo Lara. to Debra A. Chaum setting forth the methodology and assumptions used by the Department in determining the potential impact on insurers and insured. This document is contained in the rulemaking file.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of this regulation as proposed would not mandate the use of specific technologies or equipment.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative exists to carry out the purpose for which the regulations are proposed.